



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,064	01/31/2001	Barrett Richard Bobsein	A01157	1820

7590

08/27/2003

Ronald D. Bakule  
Rohm and Haas Company  
Patent Department  
100 Independence Mall West  
Philadelphia, PA 19106-2399

EXAMINER

CHIN, PETER

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

---

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 20030801

Application Number: 09/774,064  
Filing Date: January 31, 2001  
Appellant(s): BOBSEIN ET AL.

---

Ronald D. Bakule  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed May 22, 2003.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) Grouping of Claims**

The rejected claims stand or fall together as stated in the brief.

**(8) Claims Appealed**

**JP 3-340774**

**Hoshino et al**

**7-1993**

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hoshino et al (English translation provided).

Hoshino discloses a mixture of inorganic pigment and hollow emulsion polymer particles having bimodal particle size distribution. The diameter of the hollow polymer particle is between 0.3 and 5.0 micron or 300 and 5000 nanometers; the other smaller polymer particle is between 0.05 and 0.3 micron or 50 and 300 nanometers. The polymer particles are ideally present between 3 and 30% weight of the pigment (pages 6 and 7 of the translation) and thus, the inorganic pigment is between 97 and 70% by weight of the pigment. The examples show the claimed proportion and diameters of the two polymer particles. Page 6, last sentence of the translation discloses the choice of only 6 inorganic pigments among which is  $\text{CaCO}_3$ . The small number of choices would reasonably teach or infer the use of a single inorganic pigment species. Thus, Hoshino anticipates the claimed invention. At the very least, it would have been obvious to select a single species of inorganic pigment,  $\text{CaCO}_3$  as an obvious matter choice depending

Art Unit: 1731

on availability and cost, and it would reduce the number of raw material thereby simplifying the process and product.

**(11) Response to Argument**

1. It is urged that Hoshino disclosure of such an "extreme" range of polymer emulsion particle, at least 1% of entire pigment amount coupled without an explicit disclosure of inorganic pigment component exclusively  $\text{CaCO}_3$  would mitigate against the rejection of the claims under 35USC102(b) over Hoshino. The fact remains that the claimed range of polymer particles fall within the ambit of the preferred range in Hoshino as noted in the above rejection.


2. While Hoshino in the single example on page 11 employs 27 parts (27%)  $\text{CaCO}_3$  it is in combination with 63 parts (63%) of kaolin clay to form the inorganic pigment portion of the pigment component of the coating composition. There are 10 parts (10%) polymer particles in the pigment portion. The disclosure of Hoshino is not limited to single example as implied by Appellant's argument. Selecting a single inorganic pigment,  $\text{CaCO}_3$  is taught by or at the least obvious over Hoshino as noted in the above rejection.

For the above reasons, it is believed that the rejections should be sustained.

Application/Control Number: 09/774,064  
Art Unit: 1731

Page 5

Respectfully submitted,

  
Peter Chin  
Primary Examiner  
Art Unit 1731

PC  
August 21, 2003

Conferees  
Steven Griffin   
Michael Ball 

Ronald D. Bakule  
Rohm and Haas Company  
Patent Department  
100 Independence Mall West  
Philadelphia, PA 19106-2399